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RUEHPO/AMEMBASSY PARAMARIBO PRIORITY 1240
RUEHPU/AMEMBASSY PORT AU PRINCE PRIORITY 4888
RUEHSP/AMEMBASSY PORT OF SPAIN PRIORITY 1944
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RHEFDIA/DIA WASHDC PRIORITY
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SENSITIVE
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STATE FOR WHA DAS ROBINSON AND WHA/CAR

E.O. 12958: N/A
TAGS: [PREL](#) [PGOV](#) [PHUM](#) [KCRM](#) [SNAR](#) [DR](#)
SUBJECT: VISIT BY WHA DAS ROBINSON

REF: A. SDO 1729
[1](#)B. SDO 1110
[1](#)C. SDO 1608
[1](#)D. SDO 561
[1](#)E. SDO 1296

[1](#)1. (U) Summary: The November 17-19 visit of WHA Deputy Assistant Secretary David Robinson and WHA/CAR Deputy Director Willard Smith to the Dominican Republic provided them an opportunity to hear first hand about the challenges faced by the GODR and Embassy Santo Domingo - the energy and fiscal crisis, the rise of populism in the region, undocumented foreigners, constitutional reform and judicial independence, as well as the need for more coordination on law enforcement. The delegation met with the Ministers of Foreign Affairs, Economic Planning and Development, and of the Interior, as well as the Supreme Court's President and many of the magistrates who make up the Central Elections Board (JCE), including its president. GODR officials spoke with helpful candor. USG officials were well received, and conveyed continuity in our relationship while stressing the need to regularize the status of undocumented Haitians in the Dominican Republic and improve transparency and effectiveness in public institutions. End Summary.

Economic and Energy Issues

[1](#)2. (SBU) The delegation, accompanied by the Ambassador and USAID Mission Director, met first with the Minister of Economic Planning and Development, Temistocles Montas. Montas explained the two main reasons for the electricity crisis (ref A): First, the price of electricity paid by consumers - which is set by the government - does not reflect the real cost of services. Second, only 59 percent of bills are paid. Moreover, instead of proceeding with a plan to liberalize the market after four years, the government opted in 2004 to enter into 15 year contracts with generators and to provide subsidies for the poor. The results include an increasing debt and increasing power outages - the latter now provoking some protests and causing companies to cut production and jobs. Montas believes the problems of tariffs and non-payment must be addressed now that global fuel prices have dropped.

[1](#)3. (SBU) Minister Montas underscored the importance to the DR

of its close economic ties to the U.S., saying that PetroCaribe - while apparently necessary to the DR during the recent spike in global oil prices - may now not be of much help. Montas mentioned that, in any event, participation in PetroCaribe did not come with any political pressure. He stressed that progress over the last 50 years in the DR has really depended on access to the U.S. market. Montas expressed the hope that an Obama administration would remain committed to CAFTA-DR. He believes, moreover, that the People's Republic of China represents a commercial threat because its cheap labor has undermined manufacturing in the U.S. and the textile industry in the DR, Mexico and Central America. Finally, he commented that his recent USAID funded trip to a Transparency International conference on corruption made clear to him the world-wide consensus that corruption adversely affects development. He hopes to put forward a proposal for more "transparency" in the DR next year. The U.S. side encouraged him to pursue that course.

Foreign Minister Surveys the Region

¶4. (SBU) The meeting with Foreign Minister Morales Troncoso was a courtesy call turned tour d'horizon of the Latin American, as well as Dominican, diplomatic and political scene. He began by noting that the April 2009 Summit of the Americas in Trinidad and Tobago likely would be President Obama's first opportunity to "meet Latin America." The FM continued with his assessment of "resurging radicalism over the last several years" in the region and said that what has happened in Venezuela and Bolivia "could happen in other countries." Robinson noted that the challenge we collectively face is to make the benefits of free markets and democratic institutions reach the majority of citizens and that the Pathways to Prosperity Initiative is a significant step in that direction. Morales went on to suggest that OAS Secretary General Insulza's desire to run for the presidency in Chile hurts efforts to ensure democracy succeeds in, for instance, Nicaragua, and added that the GON asked for but did not receive support from the GODR in countering criticism for mishandling recent elections.

"Regularization" of Haitians - and the Dead Hand of History

¶5. (SBU) The Central Elections Board (Junta Central Electoral - JCE) - which oversees elections and the issuance of identity documents - came out in force to meet with the Ambassador, DAS Robinson and Deputy Director Smith. JCE magistrates, as well as the Board's President, Julio Castanos Guzman, pointed to a process it has initiated permitting newborns of foreigners, including Haitians, to be registered (using the "Pink Book" procedure - ref B). In the past year they said, 200 of 300 children so registered were of Haitian descent. The JCE also plans to write an "implementing regulation" to ensure enforcement of the 2004 migration law, but feels it must wait until the process of constitutional reform (ref C) is completed. The US group again urged attention to the plight of undocumented Haitians.

Proposed Reforms Threaten Supreme Court

¶6. (SBU) President of the Supreme Court Subero Isa had a blunt message for the Ambassador, DAS Robinson, and Deputy Director Smith: The proposed constitutional reforms would reduce the Supreme Court to a mere "court of cassation," unable to decide constitutional or administrative law questions. Specifically, Subero Isa complained, President Fernandez wants to have a separate constitutional court and a separate administrative court. A constitutional court would lead to "endless litigation" according to Subero Isa, citing the experiences of other nations. Worse, the planned constitutional court would not be made up of career judges, but seven persons selected - perhaps for political reasons - by the Supreme Judicial Council (which itself includes political leaders such as the President, Vice President and the heads of the two houses of Congress). A separate

administrative tribunal would probably strip the Supreme Court of its role in ensuring that the bureaucracy implements laws and regulations fairly. Subero Isa also claimed that the creation of these two new bodies would "cost more than the current judiciary's budget."

¶17. (SBU) The Supreme Court's chief went on to say that repeated conflict between the Supreme Court and the Executive branch may lie behind the suggested reforms. In addition to declaring several presidential decrees unconstitutional in recent years, the Supreme Court asserted its independence, and won public respect, in the Baninter case (ref D). Ambassador Fannin agreed that under Subero Isa's leadership the standing of the Supreme Court had improved. USAID noted that, whereas for twenty years there had only been six corruption cases, with one completed, in the last year 17 corruption cases have reached a final decision. Subero Isa graciously replied that such finality would have been impossible without the recent reform of the Criminal Procedure Code - which was supported by the USG.

¶18. (SBU) Subero Isa then handed the U.S. team a copy of observations the court submitted on November 3, as part of the constitutional reform debate. Despite this input and President Fernandez's assurance that the current proposal could still be modified, Subero Isa called himself "pessimistic." Then, despite his strong critique of the very concept of a constitutional court, he added, "My two conditions are: (1) such a court must be made up of career judges, and (2) it must not be able to overturn Supreme Court decisions."
Interior Ministry - Stove-piping Security?

¶19. (SBU) The DAS and Deputy Director also met with the Minister of Interior and Police, Franklin Almeida. Discussion centered on the growing narco-trafficking threat faced by the DR (ref E), with Almeida commenting that "10 years ago we were just a bridge, but in the last few years payments (by smugglers) in drugs has created 'micro-trafficking' and more violence, although most of the population rejects violence."

¶110. (SBU) Almeida provided us with a copy of the Interior Ministry's "security plan" for the nation, noting that the ministry "works on prevention" while the Attorney General's office handles prosecution. Almeida observed that the DNCD (the counter-narcotics directorate), while trained by the U.S. to interdict international drug flows, is not yet capable of addressing local "micro-trafficking." In response, the National Police - overseen by the Interior Minister - has begun creating specialized units to support the DNCD in the fight against micro-trafficking.

¶111. (SBU) Asked about plans by the Interior Ministry to issue some kind of "carnet" to otherwise undocumented Haitians - something reportedly not welcomed by the JCE which sees itself as having jurisdiction in this area - Almeida said they hope to start next year. He added, however, that whatever process may be adopted will depend on constitutional reforms that should address the nationality issue. He also stressed that Dominicans, per Gallup polling data, overwhelmingly agree that all foreigners (Cubans, Europeans and Haitians) should be treated fairly and regularized. Almeida also expressed his hope that President Obama will help Haiti because, "there really is no government there." The U.S. side reiterated our longstanding commitment to cooperation in the drug fight and to the economic and political development of both the DR and Haiti.

¶112. (SBU) (Note: Despite Almeida's references to some steps towards better coordination, fissures in the system were apparent. First, under the new Criminal Procedure Code, prosecutors are supposed to help manage - but not perform - criminal investigations (NAS training programs are addressing this issue). Second, the Interior Minister acknowledged that the police have yet to "get high-level people arrested." He added that "there's a barrier if the military is involved."

End note.)

113. (U) DAS Robinson cleared this message.

(U) Please visit us at
<http://www.state.sgov.gov/p/wha/santodomingo/>
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